

AG Contract No. KR93 0892TRN  
ECS File: JPA 93-77  
Project: 87MA 164 H272801D  
Section: State Route 87

**INTERGOVERNMENTAL AGREEMENT**  
BETWEEN  
THE STATE OF ARIZONA  
AND  
THE CITY OF CHANDLER

THIS AGREEMENT is entered into 18 August, 1993,  
pursuant to Arizona Revised Statutes, Sections 11-951 through  
11-954, as amended, between the STATE OF ARIZONA, acting by and  
through its DEPARTMENT OF TRANSPORTATION (the "State") and the  
CITY OF CHANDLER, acting by and through its City Council (the  
"City").

I. RECITALS

1. The State is empowered by Arizona Revised Statutes  
Section 28-108 to enter into this agreement and has by  
resolution, a copy of which is attached hereto and made a part  
hereof, resolved to enter into this agreement and has delegated  
to the undersigned the authority to execute this agreement on  
behalf of the State.

2. The City is empowered by Arizona Revised Statutes  
Section 48-572 and to enter into this agreement and has by  
resolution, a copy of which is attached hereto and made a part  
hereof, resolved to enter into this agreement and has  
authorized the undersigned to execute this agreement on behalf  
of the City.

3. The City desires reconstruction of State Route 87  
(SR-87) from Frye Road to Ocotillo Road, to begin in FY  
1994-1995. The State has planned improvement projects to SR-87  
to begin during FY 1995-1996 within the limits of the City.  
The improvements include reconstructing SR-87 from Frye Road to  
Ocotillo Road as a 4-6 lane urban arterial roadway with turn  
lanes, curb, gutter, sidewalk and landscaping. The State and  
the City have now agreed to transfer State funds to the City to  
accelerate and accomplish those improvements contemplated by  
the State.

THEREFORE, in consideration of the mutual agreements expressed  
herein, it is agreed as follows:

NO. <u>17941</u>
FILED WITH SECRETARY OF STATE
Date Filed <u>08/18/93</u>
<u>Richard H. Shoney</u> Secretary of State
By <u>Dicky V. Greenwood</u>

## II. SCOPE OF WORK

### 1. The State will:

a. Transfer \$350,000.00 to the City on or about 15 July 1993; and transfer \$200,000.00 to the City on or about 1 July 1994, for SR-87 improvement design, and modify the ADOT Five Year Highway Construction Program to include \$6 million for the City for SR-87 improvements in FY 1995-1996, and an additional \$6 million for the City for SR-87 improvements in FY 1996-1997. Of that \$12 million, keep available and provide funds as necessary of up to \$1 million to the City for SR-87 project related environmental testing and/or remediation.

b. On or about 1 July 1995 pay the City \$5.5 million, and on or about 1 July 1996 pay the City another \$5.5 million, for completion of the State funded improvements.

c. Perform basic maintenance activities, such as fog coat, crosswalk delineation, signal and lighting repairs as necessary, and roadway restriping prior to the abandonments contemplated herein.

d. After completion of the State funded projects by the City and upon approval and by resolution of the State Transportation Board, abandon jurisdiction and maintenance responsibility for SR-87 in the City from Frye Road North to the Western Canal, and from Frye Road South to Ocotillo Road, to the City.

### 2. The City will:

a. Accomplish design of the SR-87 improvement projects, acquire additional required rights-of-way, and timely construct the improvements. Be responsible for all costs relating to construction, and cooperate with the State Historic Preservation Office regarding any archeaological discoveries during construction.

b. Upon receipt of \$5.5 million from the State during FY 1995-1996 start the improvements contemplated by the State to SR-87 from Frye Road South to Ocotillo Road, and, upon receipt of \$5.5 million from the State during FY 1996-1997 complete the improvements contemplated by the State.

c. After completion of the State funded projects by the City and upon approval and by resolution of the State Transportation Board, accept jurisdiction and maintenance responsibility for SR-87 in the City from Frye Road North to the Western Canal, and from Frye Road South to Ocotillo Road. Waive the four year advance notification requirements of Arizona Revised Statute 28-106.

### III. MISCELLANEOUS PROVISIONS

1. This agreement shall remain in force and effect until completion of said improvements and abandonments; provided, however, that this agreement, except any provisions herein for maintenance, which shall be perpetual, may be cancelled at any time prior to the first State payment to the City, upon thirty (30) days written notice to the other party.

2. This agreement shall become effective upon filing with the Secretary of State.

3. This agreement may be cancelled in accordance with Arizona Revised Statutes Section 38-511.

4. The provisions of Arizona Revised Statutes Section 35-214 are applicable to this contract.

5. In the event of any controversy which may arise out of this agreement, the parties hereto agree to abide by required arbitration as is set forth for public works contracts in Arizona Revised Statutes Section 12-1518.

6. All notices or demands upon any party to this agreement shall be in writing and shall be delivered in person or sent by mail addressed as follows:

Department of Transportation  
Joint Project Administration  
205 South 17 Avenue, Mail Drop 616E  
Phoenix, AZ 85007

City of Chandler  
City Manager  
25 S. Arizona Place #301  
Chandler, AZ 85225

7. Attached hereto and incorporated herein is the written determination of each party's legal counsel that the parties are authorized under the laws of this state to enter into this agreement and that the agreement is in proper form.


IN WITNESS WHEREOF, the parties have executed this agreement the day and year first above written.

CITY OF CHANDLER


STATE OF ARIZONA

Department of Transportation

By   
COY PAYNE  
Mayor

By   
FOR AUGUST V. HARDT  
Deputy State Engineer

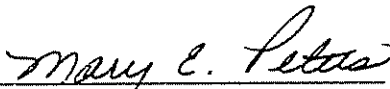
ATTEST

By   
CAROLYN DUNN  
City Clerk

RESOLUTION

BE IT RESOLVED on this 12th day of May 1993, that I, the undersigned LARRY S. BONINE, as Director of the Arizona Department of Transportation, have determined that it is in the best interests of the State of Arizona that the Department of Transportation, acting by and through the Highways Division, to enter into an agreement with the City of Chandler for the purpose of defining responsibilities for the abandonment of jurisdiction and maintenance responsibility for State Route 87 to the City.

Therefore, authorization is hereby granted to draft said agreement which, upon completion, shall be submitted to the Deputy State Engineer for approval and execution.

  
\_\_\_\_\_  
LARRY S. BONINE  
Director

MINUTES OF THE REGULAR MEETING OF THE HONORABLE MAYOR AND CITY COUNCIL OF THE CITY OF CHANDLER, ARIZONA, held in the Council Chamber, 250 E. Commonwealth Avenue, on Thursday, July 8, 1993 at 7:00 p.m.

The meeting was called to order by Mayor Payne.

The following members answered roll call:

Coy Payne	Mayor
Jay Tibshraeny	Vice Mayor
Judy Harris	Councilman
Lowell Huggins	Councilman
Matt Orlando	Councilman
Roger Peterson	Councilman
Bob Robson	Councilman

Also in attendance:

John Pinch	City Manager
Pat McDermott	Assistant City Manager
Dennis O'Neill	City Attorney
Carolyn Dunn	City Clerk

The following staff members were also present: Dave Bigos, Bob Leister, George Selvia, Bryan Patterson, Hank Pluster, Dave McDowell, Jennifer Morrison, Steve Colby, Patricia Walker, and Jim Roxburgh.

INVOCATION: The invocation was led by Rev. Larry Stoterau of the Epiphany Lutheran Church.

PLEDGE OF ALLEGIANCE: The Pledge of Allegiance was led by Councilman Huggins.

SCHEDULED PUBLIC APPEARANCES:

1. Ingrid Enloe, Ry-Nik Studios - Ostrich Gift

MS. INGRID ENLOE presented the Mayor and Council with a ceramic piece, which she made, in commemoration of the Ostrich Festival.

MAYOR PAYNE spoke of the time when Ingrid was a student at Chandler Junior High School where he was Vice Principal and her mother also taught. It was wonderful to receive such a gift from Ry-Nik Studios.

2. Ingrid Gallegos - Housing and Child Care in Chandler

MS. INGRID GALLEGOS, 1425 W. Bentrup, asked how, as a HUD participant, she could covert her landscaping from grass to desert landscaping, as she felt HUD should require grass to conserve water. She was interested in the water conservation issue.

26. DEVELOPMENT PLAN/SAN MARCOS COUNTRY CLUB ESTATES: Z93-049  
(CC 93-091)

Approved Z93-049 San Marcos Country Club Estates providing Preliminary Development Plan approval amending the timing condition for the completion of the "Theme Wall" along the southern border of three existing home sites backing onto Frye Road (one-half mile east of Alma School). Commission and Staff recommended approval for amending the Preliminary Development Plan approval, requiring the theme wall to be extended east along Frye Road to the existing wall adjoining the City water tank, as a condition of developing the adjoining parcel known as "East Colony." This approval is further conditional upon such extension being identical in design, material, setback, and landscaping. The applicant made this request to make the wall extension for Area 2 and 3 the responsibility of "East Colony," i.e., the development parcel immediately adjoining Area 3 to the north.

30. RISK MANAGEMENT: Commercial Insurance Program (RM4-001)

Authorized the purchase of a program of property and liability insurance coverage for \$436,468. This will include \$20 million in liability coverage with Insurance Company of the West, the current carrier, at a cost of \$356,000, \$81,692,036 in property coverage with Federal Insurance Co. at a cost of \$49,596, a \$1,000,000 crime policy with Hartford for \$4,752, a \$10,000,000 Airport Liability Policy with Aviation Office of America for \$9,113, and an Underground Storage Tank liability policy for \$17,007.

The City has carried a liability self insured retention of \$1 million since July 1, 1987 in an effort to maintain adequate coverage for catastrophic losses while keeping premiums within predictable norms. This technique has allowed the City to build an adequate loss reserve while leveling out the cost of liability coverage.

MOVED BY COUNCILMAN HARRIS, seconded by COUNCILMAN ROBSON, to approve the Consent Agenda with Items #15, #18 and #27 moved to the Action Agenda. MOTION CARRIED UNANIMOUSLY (7 to 0) with Councilman Peterson voting No on Item #5, and Vice Mayor Tibshraeny and Councilman Robson declaring a conflict of interest on Item #5.

ACTION AGENDA:

15. INTERGOVERNMENTAL AGREEMENT: RECONSTRUCTION STATE RT. 87  
(P03-004)

This item is a request by Staff to execute intergovernmental agreements with the Arizona Dept. of Transportation (ADOT) and

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Maricopa County regarding funding and administrative responsibilities for the reconstruction of State Route 87 (Arizona Avenue) from Ocotillo Road to Frye Road.

In the ADOT five year highway construction program for FY 1994 through 1998, ADOT has allocated \$12.55 million for the reconstruction of State Route 87 provided that the City of Chandler will accept maintenance responsibility for State Route 87. The tentative ADOT program was presented for public hearing in April, 1993 and was adopted by the State Transportation Board on June 18, 1993. In addition, the Maricopa County Transportation Advisory Board has approved \$161,500 for design. Approval by the Maricopa County Board of Supervisors is expected in July.

The ADOT five year construction program represents a significant step forward in making improvements to the safety and capacity of State Route 87. The funding allocations by ADOT will make it possible to initiate design work in FY 1993-94 and will permit construction to begin in the summer of 1995. Staff had drafted intergovernmental agreements in cooperation with ADOT and Maricopa County to identify a mutually agreeable approach to fully fund the design work and begin construction as soon as design is complete. This will require an advance from the City of Chandler in the amount of \$200,000 that will be repaid by ADOT in FY 1994-95. In addition, Maricopa County will contribute \$161,500 to the design costs.

MR. GEORGE SELVIA, Public Works Director, noted that as a result of meetings between Mayor Payne, Vice Mayor Tibshraeny and other Councilmembers, ADOT, at their last meeting, increased the funding for this project from \$4.5 million to \$12.55 million. Construction is anticipated to begin in 1995.

MR. BRYAN PATTERSON, Asst. Public Works Director/Transportation, said, in FY 1993-94, \$350,000 in design monies will be received from ADOT with the design consultant to be hired as early as September 1993. He commended the City Council and Staff for their efforts with the County which resulted in \$161,500 in newly acquired design funding from Maricopa County. In 1995-96 \$6 million dollars of ADOT construction monies will become available, with an additional \$6 available in 1996-97. Until recently only \$4 million was available which would not have allowed completion of the renovation project. The project will consist of, ideally, a 6 lane roadway, with 12-foot travel lanes, landscaped medians, bike lanes, sidewalks and roadside landscaping.

When MAYOR PAYNE asked for confirmation that it would be a 6-lane roadway, and MR. SELVIA said it is hoped that the owner of the



larger parcel on the south of Pecos Road would donate the right-of-way which is needed to make the roadway a 6-lane rather than a 4-lane roadway. Either the property owner can donate the property and the 6-lanes will be developed at no cost to him. Or, the 4-lane roadway will be constructed now with the additional 2 lanes to be developed at a later date totally at the property owners expense. Meetings with the property owner should be held very soon.

COUNCILMEMBER HARRIS said it was good to see this roadway develop as an attractive entrance to the City.

COUNCILMAN ROBSON cautioned against landscaping, having seen trees on the landscaping area of the plan, that required much maintenance. He felt it was crucial to keep future landscape maintenance costs down.

MR. PATTERSON said landscaping would be one of the last items to be designed, and he felt Councilman Robson's concern would be addressed in the design process. The landscaping on the plan is only conceptual and subject to refinement.

MR. SELVIA noted that Supervisor Tom Rawles assisted the City in receiving ADOT funds. He commended Mr. Patterson for his work on this project in which the funding schedule changed from 3 years on a \$4 million project to 2 years on a \$6 million project.

MAYOR PAYNE expressed appreciation for Mr. Patterson's work.

VICE MAYOR TIBSHRAENY said he had, for a long time, been very interested in seeing improvements on this strip of roadway which has an accident rate 3 to 4 times higher than the State average. Much hard work on the part of the City, including Brian Patterson, George Selvia, John Pinch, Mayor Payne, the Council and himself had resulted in additional funding for this project. He had contacted the Governor's office in February and received help from them also. It was good to see another joint utilization project which uses City, State and County funds to accomplish work on a roadway which will benefit Sun Lakes, unincorporated portions of Maricopa County, the Gila River Indian community, and Chandler. It is long overdue and he was excited to see that the work would begin immediately on the design. He felt the bike path element was important to the quality of life for Chandler and Sun Lakes residents. He again thanked Staff for all their work.

COUNCILMAN ROBSON agreed this was one of the most dangerous roads in our City, especially for the mobile home park along the road. He highly commended Staff for their work. Work on this roadway was

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APPROVAL OF THE CHANDLER CITY ATTORNEY

I have reviewed the above referenced proposed intergovernmental agreement, between the DEPARTMENT OF TRANSPORTATION, HIGHWAYS DIVISION and the CITY OF CHANDLER and declare this agreement to be in proper form and within the powers and authority granted to the City under the laws of the State of Arizona.

DATED this 21st day of July, 1993.

Dennis M. O'Neill

City Attorney



STATE OF ARIZONA

OFFICE OF THE ATTORNEY GENERAL

GRANT WOODS  
ATTORNEY GENERAL

1275 WEST WASHINGTON, PHOENIX 85007-2926

MAIN PHONE : 542-5025  
TELECOPIER : 542-4085


INTERGOVERNMENTAL AGREEMENT  
DETERMINATION

A. G. Contract No. KR93-0892-TRN, an agreement between public agencies, has been reviewed pursuant to A.R.S. §11-952, as amended, by the undersigned Assistant Attorney General who has determined that it is in the proper form and is within the powers and authority granted to the State of Arizona.

No opinion is expressed as to the authority of the remaining parties, other than the State or its agencies, to enter into said agreement.

DATED this 10<sup>th</sup> day of August, 1993.

GRANT WOODS  
Attorney General

  
JAMES R. REDPATH  
Assistant Attorney General  
Transportation Section

8118/